

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****SPECIAL CIVIL APPLICATION No. 688 of 2001****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
  - 2 To be referred to the Reporter or not ?
  - 3 Whether their Lordships wish to see the fair copy of the judgment ?
  - Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
  - 4
  - 5 Whether it is to be circulated to the civil judge ?

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**DIVISIONAL CONTROLLER GSRTC - Petitioner(s)**  
**Versus**  
**RAIJIBHAI MOTIBHAI GOHIL - Respondent(s)**

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**Appearance :**

MR MITUL K SHELAT for Petitioner(s) : 1,  
MR BHARAT JANI for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE KS JHAVERI****Date : 22/11/2005****ORAL JUDGMENT**

1. By way of this petition, the petitioner has challenged the award dated 01.06.2000 passed by the Labour Court, Surat in Reference Case No. 307/1989

allowing the Reference of the respondent and directing the petitioner to reinstate him with full backwages.

2. The brief facts of the case are that the respondent was working as a conductor with the petitioner corporation. On 15.07.1988 he was enroute Bariya from Surat on duty. A complaint was received by the divisional office of the petitioner corporation at Bariya from two passengers that the respondent had not refunded balance amount due to them which in total was Rs.130.20/-. Moreover, it was also reported that the respondent was in a drunken state on that particular date.

3. Heard Mr. Mitul Shelat, the learned advocate for the petitioner. Mr Shelat has contended that though default card at Exhibit 31 was on record, the Labour Court has not considered the same. He has further submitted that after following the procedure required under the departmental rules, the respondent was dismissed from service which was challenged before the Labour Court. The Labour Court while considering the case of the respondent and exercising its powers under section 11A has set aside the penalty of dismissal and has reinstated him with full backwages.

4. After going through the facts and circumstances of the case and after having heard the contentions, I am of the opinion that in view of the fact that there are as many as 36 Defaults as per Exhibit 31, the Labour Court ought to have imposed some penalty. On the facts of the case, I am of the opinion that a penalty of four increments with future effect would meet the ends of justice. The Labour Court has, also, committed an error in granting full backwages while exercising powers under Section 11A of the Act.

5. In the premises aforesaid, the petition is partly allowed. The order of reinstatement with continuity of service is confirmed. However, the order of backwages is quashed and set aside. The petitioner corporation will impose penalty of four increments with future effect upon the respondent. The award of the Labour Court to be implemented within a period of six weeks from today. Rule made absolute with no order as to costs.

(K.S. JHAVERI, J.)

Divya//